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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/606,641	06/29/2000	Kimberly J. Rush	MICR0512	7703

27792 7590 10/13/2006
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EXAMINER

CHOUDHURY, AZIZUL Q

ART UNIT PAPER NUMBER

2145

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	09/606,641	RUSH ET AL.	
	Examiner	Art Unit	
	Azizul Choudhury	2145	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 September 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.


AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

AC


PATRICE WINDER
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: The remarks were not deemed fully persuasive. The following are the examiner's response to the principle arguments presented. The remarks start off stating that the claims were rejected as being anticipated. This is incorrect, the claims were rejected using a 103-type rejection with two prior arts and were rejected as being unpatentable. As for the remarks regarding the claims, the applicant states that only the independent claims will be argued for the purpose of reducing complexity on the examiner. Based on the independent claims, the first point of contention addressed by the applicant concerns a "service container comprising a code module, a data module and an ID." The applicant contends that the Doyle prior art does not teach these features. However, closer inspection of the claims reveals that "code module" and "data module" are never claimed within the independent claims. The second point of contention addressed by the applicant concerns the claimed service container containing data and code objects and the loader id. The applicant contends that there is no reason to assert that a surrogate process includes each of these objects and id. The examiner disagrees with the applicant's conclusion. If a surrogate process is to be called upon by a main process, identification information is required to properly id the desired surrogate process from the multiple available surrogate processes. Also, id information is required to properly id all the data. In addition, in order for a surrogate process to process information, the surrogate process must have information to process, hence the claimed data and code objects are required. The third point of contention involves the "segment of computer code are not executable as an independent computer program." The applicant contends that neither prior arts teach such a trait. However, upon closer inspection of the applicant's own specification, it is revealed that such a trait is never described, hence the feature is lacking enablement. The fourth point of contention involves the trait, "a surrogate process including a data object that includes data required to carry out a specific function corresponding to the surrogate process." The applicant contends that no such trait is taught. The examiner disagrees. The trait is simply one of a surrogate process performing some operations with some data. This is taught repeated time within the Held prior art alone. The final point of contention involves the trait, "parsing the service container." The applicant contends that such a feature is not taught within the prior art. The examiner again disagrees. The service container within Held's design is referred to as a service control manager. The service control manager handles (parses) information pertinent to selecting and running a surrogate program. Just one such instance of this operation is demonstrated within column 7, lines 3-31 of Held's disclosure. This is simply one of many examples of how the service control manager (service container) handles (parses) data .